

AMENDED IN ASSEMBLY MAY 26, 2009

AMENDED IN ASSEMBLY APRIL 1, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 899

**Introduced by Assembly Member Torres
(Coauthor: Assembly Member Eng)**

February 26, 2009

An act to amend Section 1365.2.5 of, and to add Section 1363.005 to, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 899, as amended, Torres. Common interest developments: disclosures.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. Under existing law, a common interest development is managed by an association pursuant to the provisions of the governing documents of the development. Existing law requires an association to provide specified disclosure documents to its members.

This bill would require an association to distribute annually to its members a Disclosure Documents Index, as specified.

Existing law requires an association to distribute to its members a pro forma operating budget for each fiscal year, as specified. Existing law also requires an association to distribute, with the pro forma operating budget, an Assessment and Reserve Funding Disclosure Summary containing specified information regarding the association's assessments and reserves.

This bill would require that Assessment and Reserve Funding Disclosure Summary to include a specified statement regarding the interest rate earned on reserve funds and the assumed inflation rate applied to major component repair and replacement costs.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1363.005 is added to the Civil Code, to read:

1363.005. The association shall, *at the request of any member*, annually distribute to ~~its~~ *those* members, *subject to Section 1350.7*, the following Disclosure Documents Index:

Disclosure Documents Index		
Item	Description	Reference Code
1	Assessment and Reserve Funding Summary	Civil Code Sec. 1365
2	Pro Forma Operating Budget <i>and Pro Forma Operating Budget Summary</i>	Civil Code Sec. 1365(a)
3	Pro Forma Operating Budget Summary	Civil Code Sec. 1365(a)
43	Assessment Collection Policy	Civil Code Sec. 1365(e) and 1367.1(a)
54	Notice Assessments and Foreclosure	Civil Code Sec. 1365.1
65	Collection Rights and Duties	Civil Code Sec. 1365.1
76	Insurance Coverage Summary	Civil Code Sec. 1365(f)
87	Board Minutes Access	Civil Code Sec. 1363.05(e)
98	Alternative Dispute Resolution (ADR) Rights	Civil Code Sec. 1369.59
109	Internal Dispute Resolution (IDR) Rights	Civil Code Sec. 1363.850
110	Architectural Changes Notice	Civil Code Sec. 1378
121	Secondary Address Notification Request	Civil Code Sec. 1367.1(k)

13 12	Monetary Penalties Schedule	Civil Code Sec. 1363(g)
14 13	Annual Report Right to Receive	Corp. Code Sec. 8321 Civil Code Sec. 1365(c)
15 14	Reserve Funding Plan Right to Receive	Civil Code Sec. 1365(b)

SEC. 2. Section 1365.2.5 of the Civil Code is amended to read:
1365.2.5. (a) The disclosures required by this article with regard to an association or a property shall be summarized on the following form:

Assessment and Reserve Funding Disclosure Summary

(1) The current regular assessment per ownership interest is \$_____ per _____. Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page _____ of the attached summary.

(2) Additional regular or special assessments that have already been scheduled to be imposed or charged, regardless of the purpose, if they have been approved by the board and/or members:

Date assessment will be due:	Amount per ownership interest per month or year (If assessments are variable, see note immediately below):	Purpose of the assessment:
	Total:	

Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page ____ of the attached report.

(3) Based upon the most recent reserve study and other information available to the board of directors, will currently projected reserve account balances be sufficient at the end of each

1 year to meet the association’s obligation for repair and/or
2 replacement of major components during the next 30 years?

3 Yes _____ No _____

4 (4) If the answer to (3) is no, what additional assessments or
5 other contributions to reserves would be necessary to ensure that
6 sufficient reserve funds will be available each year during the next
7 30 years that have not yet been approved by the board or the
8 members?

Approximate date assessment will be due:	Amount per ownership interest per month or year:
	Total:

19 (5) All major components are included in the reserve study
20 and are included in its calculations.

21 (6) Based on the method of calculation in paragraph (4) of
22 subdivision (b) of Section 1365.2.5, the estimated amount required
23 in the reserve fund at the end of the current fiscal year is \$____,
24 based in whole or in part on the last reserve study or update
25 prepared by ____ as of ____ (month), ____ (year). The projected
26 reserve fund cash balance at the end of the current fiscal year is
27 \$____, resulting in reserves being ____ percent funded at this date.
28 If an alternate, but generally accepted, method of calculation is
29 also used, the required reserve amount is \$____. (See attached
30 explanation)

32 (7) Based on the method of calculation in paragraph (4) of
33 subdivision (b) of Section 1365.2.5 of the Civil Code, the estimated
34 amount required in the reserve fund at the end of each of the next
35 five budget years is \$____, and the projected reserve fund cash
36 balance in each of those years, taking into account only assessments
37 already approved and other known revenues, is \$____, leaving the
38 reserve at ____ percent funding. If the reserve funding plan
39 approved by the association is implemented, the projected reserve

1 fund cash balance in each of those years will be \$_____, leaving the
2 reserve at _____ percent funding.

3
4 Note: The financial representations set forth in this summary are based on the
5 best estimates of the preparer at that time. The estimates are subject to change.
6 At the time this summary was prepared, the assumed long-term before-tax
7 interest rate earned on reserve funds was _____ percent per-~~annum~~ year, and
8 the assumed long-term inflation rate to be applied to major component repair
9 and replacement costs was _____ percent per-~~annum~~ year.

10
11 (b) For the purposes of preparing a summary pursuant to this
12 section:

13 (1) “Estimated remaining useful life” means the time reasonably
14 calculated to remain before a major component will require
15 replacement.

16 (2) “Major component” has the meaning used in Section 1365.5.
17 Components with an estimated remaining useful life of more than
18 30 years may be included in a study as a capital asset or disregarded
19 from the reserve calculation, so long as the decision is revealed in
20 the reserve study report and reported in the Assessment and
21 Reserve Funding Disclosure Summary.

22 (3) The form set out in subdivision (a) shall accompany each
23 pro forma operating budget or summary thereof that is delivered
24 pursuant to this article. The form may be supplemented or modified
25 to clarify the information delivered, so long as the minimum
26 information set out in subdivision (a) is provided.

27 (4) For the purpose of the report and summary, the amount of
28 reserves needed to be accumulated for a component at a given time
29 shall be computed as the current cost of replacement or repair
30 multiplied by the number of years the component has been in
31 service divided by the useful life of the component. This shall not
32 be construed to require the board to fund reserves in accordance
33 with this calculation.